

File - Afghanistan
537



DEPARTMENT OF STATE

Washington, D.C. 20520

BUREAU OF HUMAN RIGHTS
AND HUMANITARIAN AFFAIRS

April 12, 1982

MEMORANDUM

TO: RP - J. Hoganson
S/R - R. Davidson
NEA/PAB - E. Heck
L/HR - A. Surena
CA/VO - T. Blanton
CA/VO - R. Chippenfield

FROM: HA - Larry Arthur

SUBJECT: Afghans Arriving Illegally in U. S. and Requesting Asylum

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| DEPARTMENT OF STATE A/CDC/MR | |
| REVIEWED BY <u>[Signature]</u> | DATE <u>2-23</u> |
| RDS or XDS EXT. DATE _____ | |
| TS AUTH. _____ | REASON(S) _____ |
| ENDORSE EXISTING MARKINGS <input checked="" type="checkbox"/> | |
| DECLASSIFIED <input type="checkbox"/> RELEASABLE <input checked="" type="checkbox"/> | |
| RELEASE DENIED <input type="checkbox"/> | |
| PA or FOI EXEMPTIONS _____ | |

As you know, there has been a steady stream of Afghans arriving in New York City over the past year and a half with fraudulent travel documents and counterfeit U. S. visas purchased in the bazaars of Pakistan or India. A small number arrived with fraudulent passports but valid visas for Peru before Transit Without Visa status for Afghans was cancelled. Some have arrived with no visas at all. INS has kept us informed of the "people smuggling" operation centered in New York which obtains lists of names of Afghans abroad from Afghans already in the U. S. and for a fee of \$3,000-4,000 guarantees to bring the overseas Afghans to the U. S. In addition, INS has done its best to inform us of what bits of information they learn of the fraudulent passport and visa operations and carrier boarding regulations in Pakistan and India. This information has been passed routinely to CA/VO and by the Visa Fraud Division onward to our posts in those two countries.

As of July 1981 the INS began to detain all excludable aliens as mandated by our immigration statutes, with the result that the Asylum Division was required to handle asylum applications from detainees as expeditiously as possible in order to limit the time spent by any individual in detention. We are now processing more asylum applications from detained Afghans than from legal Afghan entrants. Currently in New York there are 44 detained Afghans. The number remains fairly constant in that detention center, since there is a continuous stream of illegal arrivals, most recently 33 on a single flight. Recently this type of entry was attempted for the first time on the West Coast, and 29 Afghans who arrived on a single flight were detained in San Francisco.

In February we began using versions of the attached basic language as our advisory opinion to INS concerning asylum applications from these individuals. All addressee bureaus except CA participated in the drafting and clearing of the text. By cabling our Consulates in Pakistan and India we have learned that individual Afghans either never registered for the U. S. refugee resettlement program, or registered then abandoned their application, or registered and were found not to qualify. Only one was approved for resettlement in the United States, but he was not allowed to travel here because of mental health problems. He came anyway, and applied for asylum.

This is to inform you that a few weeks ago we began to hear indications that the Immigration Judges in New York were granting asylum for one year to Afghans for whom we have provided advisory opinions based on the attached text. Those early indications have now been confirmed. Therefore, Afghans who enter the United States illegally are receiving asylum, and are the beneficiaries of that status much quicker than refugees are processed overseas. The impact of these Immigration Court decisions on the U. S. refugee resettlement program and on the volume of illegal entries is obvious.

The Immigration Judge in San Francisco has not yet begun hearings on the 29 Afghans detained there. However, since their detention, there have been no further arrivals on the West Coast. Should he decide to grant them asylum, the implications of those decisions are also clear.

INS and HA will continue to process asylum applications for detained Afghans (as for any other detained nationality) as expeditiously as possible. We shall continue to recommend that Afghans not be returned to Afghanistan, but that if they are excludable they be deported whence they came, and that if deportation is not possible, they be allowed to remain in the United States. We had earlier been informed by INS that if they were allowed to remain here, they would probably not be granted asylum. Instead, they would simply not be deported, under Section 243(h)(1) of the INA. However, some Immigration Judges have decided otherwise.

Attachments
As stated.

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CONCURRENCE:HA:LArthur

cc: HA:PPSarros
HA:WSEBurke ✓
HA:!!Levitsky